

SECOND REGULAR SESSION

# SENATE BILL NO. 1158

94TH GENERAL ASSEMBLY

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INTRODUCED BY SENATOR MAYER.

Read 1st time February 19, 2008, and ordered printed.

TERRY L. SPIELER, Secretary.

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## AN ACT

To amend chapter 160, RSMo, by adding thereto nineteen new sections relating to professional relationships between teachers and school districts, with penalty provisions.

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*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Chapter 160, RSMo, is amended by adding thereto nineteen  
2 new sections, to be known as sections 160.1000, 160.1003, 160.1006, 160.1009,  
3 160.1012, 160.1015, 160.1018, 160.1021, 160.1024, 160.1027, 160.1030, 160.1033,  
4 160.1036, 160.1039, 160.1042, 160.1045, 160.1048, 160.1051, and 160.1054, to  
5 read as follows:

160.1000. 1. Sections 160.1000 to 160.1054 shall be known and  
2 may be cited as the "Professional Relationships Between Teachers and  
3 School Districts Act". Nothing in sections 160.1000 to 160.1054 shall be  
4 construed to permit any public school employee to engage in or support  
5 a strike, nor to prohibit any public school employee from joining or  
6 participating in any employee organization.

7 2. Sections 160.1000 to 160.1054 shall supersede sections 105.500  
8 to 105.530, RSMo, to the extent it applies to public school employees, as  
9 defined in section 160.1003. Sections 160.1000 to 160.1054 shall not  
10 supersede provisions of this chapter, chapters 161 to 186, RSMo,  
11 chapter 295, RSMo, and the rules and regulations of public school  
12 employers which establish and regulate tenure or a merit or civil  
13 service system or which provide for other methods of administering  
14 employer-employee relations, so long as the rules and regulations or  
15 other methods of the public school employer do not conflict with  
16 sections 160.1000 to 160.1054 or with lawful collective agreements

17 negotiated under sections 160.1000 to 160.1054.

160.1003. As used in sections 160.1000 to 160.1054, the following  
2 words and phrases shall mean:

3 (1) "Commission", the board of mediation created in chapter 295,  
4 RSMo;

5 (2) "Confidential employee", any employee who, in the regular  
6 course of his or her duties, has access to or possesses information  
7 relating to his or her employer's employer-employee relations;

8 (3) "Employee organization", any organization, agency,  
9 association, union, committee, council, or group of any kind, except an  
10 employee representation council, that includes employees of a public  
11 school employer and which has as one of its primary purposes  
12 representing those employees in their relations with that public school  
13 employer. "Employee organization" shall also include any person such  
14 an organization authorizes to act on its behalf;

15 (4) "Employee representation council" or "council", the council of  
16 employee organizations established for an appropriate unit as  
17 described in 160.1045 to meet and negotiate with the employer over  
18 terms and conditions of employment. "Employee representation  
19 council" shall also include any person such council authorizes to act on  
20 its behalf. All members of the employee representation council shall be  
21 certified employees of the school districts for which they are meeting  
22 and negotiating;

23 (5) "Good faith", using best endeavors to enter into an  
24 arrangement to set out a process for conducting the negotiating in an  
25 effective manner, considering and responding to proposals made by  
26 each party to the other, and not acting to undermine the negotiating  
27 process. It also requires cooperation in the negotiating process by  
28 scheduling and attending meetings at a reasonable time, listening and  
29 considering proposals made by the other side, and trying to resolve  
30 differences in an acceptable way;

31 (6) "Lockout", an action by a public school employer to provoke  
32 interruptions of or prevent the continuity of work normally and usually  
33 performed by school district employees for the purpose of coercing  
34 such employees, employee organizations, or the employee  
35 representation council that represents them into accepting the  
36 employer's terms of settlement of a labor dispute, or otherwise

37 relinquishing rights guaranteed by sections 160.1000 to 160.1054;

38       (7) "Management employee", any employee in a position having  
39 significant responsibilities for formulating district policies or  
40 administering district programs, including any person who is employed  
41 in an administrative capacity and who is fulfilling duties for which an  
42 administrator's certificate is required under section 168.081,  
43 RSMo. Management positions shall be designated by the public school  
44 employer;

45       (8) "Meeting and negotiating", meeting, conferring, negotiating,  
46 and discussing between the employee representation council and the  
47 public school employer in a good faith effort to reach an agreement on  
48 matters within the scope of representation and the execution of a  
49 written document incorporating any agreements reached, which  
50 document shall, when accepted by the council and the public school  
51 employer, become binding upon all parties. The agreement may be for  
52 a period of up to, but not to exceed three years;

53       (9) "Public school employee" or "employee", any person holding  
54 a valid teaching certificate employed by any public school employer,  
55 except persons elected by popular vote, persons appointed by the  
56 governor of this state, management employees, supervisory employees,  
57 and confidential employees;

58       (10) "Public school employer" or "employer", the governing board  
59 of a public school district or a school district itself, including a common  
60 or seven-director school district, a metropolitan or urban school  
61 district, a county board of education, a county superintendent of  
62 schools, a special school district or cooperative, a community or junior  
63 college district, or a special administrative board established by the  
64 state board of education. "Public school employer" shall also include  
65 any person such an employer authorizes to act on its behalf;

66       (11) "Strike", the concerted failure to report for duty, the willful  
67 absence from one's position, the stoppage of work, or the abstinence in  
68 whole or in part from the full, faithful, and proper performance of the  
69 duties of employment for the purpose of inducing, influencing, or  
70 coercing a change in employment conditions, compensation, or the  
71 rights, privileges, or obligations of employment, or to protest or  
72 respond to an act alleged or determined to be a violation of sections  
73 160.1000 to 160.1054 committed by the public school employer;

74           (12) "Supervisory employee", any employee, regardless of job  
75 description, having authority in the interest of the employer to hire,  
76 transfer, suspend, lay off, recall, promote, discharge, or discipline other  
77 employees, or the responsibility to assign work to and direct them, or  
78 to adjust their grievances, or effectively recommend such action, if, in  
79 connection with the foregoing functions, the exercise of that authority  
80 is not of a merely routine or clerical nature, but requires the use of  
81 independent judgment.

          160.1006. In addition to other authority granted, the commission,  
2 when dealing with public schools, shall also have the following  
3 authority:

4           (1) To participate in any case pending before the commission;

5           (2) Within its discretion, to conduct studies relating to employer-  
6 employee relations, including the collection, analysis, and making  
7 available of data relating to wages, benefits, and employment practices  
8 in public and private employment;

9           (3) To develop and maintain research and training programs,  
10 either through use of commission staff or by entering into contracts  
11 with independent contractors, to assist public school employers,  
12 employee representation councils, and employee organizations in the  
13 discharge of their responsibilities under sections 160.1000 to 160.1054;

14           (4) To adopt rules and regulations to carry out the provisions  
15 and effectuate the purposes and policies of sections 160.1000 to  
16 160.1054;

17           (5) To hold hearings, subpoena witnesses, administer oaths, take  
18 the testimony or deposition of any person, and, in connection  
19 therewith, to issue subpoenas duces tecum to require the production  
20 and examination of any employer, employee representation council, or  
21 employee organization records, books, or papers relating to any matter  
22 within its jurisdiction, provided that such information shall remain  
23 confidential and not be disclosed by the commission;

24           (6) To investigate violations or alleged violations of sections  
25 160.1000 to 160.1054, and take any action and make any determinations  
26 in respect of these charges or alleged violations as the commission  
27 deems necessary to effectuate the policies of sections 160.1000 to  
28 160.1054;

29           (7) To bring an action in a court of competent jurisdiction to

30 enforce any of its orders, decisions, or rulings, or to enforce the refusal  
31 to obey a subpoena. Upon issuance of a complaint charging that any  
32 person or party has engaged in or is engaging in a violation of sections  
33 160.1000 to 160.1054, the commission may petition the court for  
34 appropriate temporary relief or restraining order;

35 (8) To delegate its powers to any member of the commission or  
36 to any person appointed by the commission for the performance of its  
37 functions, except that no fewer than three commission members may  
38 participate in the determination of any ruling or decision on the merits  
39 of any dispute coming before it, and except that a decision to refuse to  
40 issue a complaint shall require the approval of at least three  
41 commission members;

42 (9) To take any other action as the commission deems necessary  
43 to discharge its authority and duties and otherwise to effectuate the  
44 purposes of sections 160.1000 to 160.1054.

160.1009. Any person or party who willfully resists, prevents,  
2 impedes, or interferes with any member of the commission, or any of its  
3 agents in the performance of duties under sections 160.1000 to 160.1054  
4 shall be guilty of a misdemeanor, and, upon conviction thereof, shall be  
5 sentenced to pay a fine of not more than one thousand dollars.

160.1012. 1. The initial determination as to whether there are  
2 violations of sections 160.1000 to 160.1054 that are justified, and if so,  
3 what remedy is necessary to effectuate the purposes of sections  
4 160.1000 to 160.1054, shall be a matter within the exclusive jurisdiction  
5 of the commission. Procedures for investigating, hearing, and deciding  
6 such cases shall be devised and promulgated by the commission.

7 2. Any employee, employee organization, employee  
8 representation council, or employer shall have the right to file a charge  
9 of a violation of sections 160.1000 to 160.1054, except that the  
10 commission shall not do the following:

11 (1) Issue a complaint with respect of any charge based upon an  
12 alleged violation of sections 160.1000 to 160.1054 occurring more than  
13 six months prior to the filing of the charge;

14 (2) Issue a complaint against conduct also prohibited by the  
15 provisions of a negotiated agreement until the grievance machinery of  
16 the agreement, if it exists and covers the matter at issue, has been  
17 exhausted. However, when the charging party demonstrates that resort

18 to a contractual grievance procedure would be futile, exhaustion shall  
19 not be necessary. The commission shall have discretionary jurisdiction  
20 to review the settlement award reached under the grievance machinery  
21 solely for the purpose of determining whether it is repugnant to the  
22 purposes of sections 160.1000 to 160.1054. If the commission finds that  
23 the settlement is repugnant to the purposes of sections 160.1000 to  
24 160.1054, it shall issue a complaint on the basis of a timely filed charge,  
25 and hear and decide the case on the merits. Otherwise, it shall dismiss  
26 the charge. The commission shall, in determining whether the charge  
27 was timely filed, consider the six-month limitation set forth in this  
28 subsection to have been tolled during the time it took the charging  
29 party to exhaust the grievance machinery.

30 3. The commission shall not have the authority to enforce  
31 agreements between the parties, and shall not issue a complaint on any  
32 charge based on alleged violations of any agreement that would not  
33 also constitute a violation of sections 160.1000 to 160.1054.

34 4. The commission shall have the power to issue a decision and  
35 order directing an offending party to cease and desist from violating  
36 sections 160.1000 to 160.1054 and to take such affirmative action,  
37 including but not limited to, the reinstatement of employees with or  
38 without back pay, as will effectuate the policies of sections 160.1000 to  
39 160.1054.

40 5. (1) Any charging party, respondent, or intervener aggrieved  
41 by the final decision or order of the commission in a case of a violation  
42 of sections 160.1000 to 160.1054, except a decision of the commission not  
43 to issue a complaint in such a case, may petition for judicial review of  
44 such decision or order.

45 (2) Such petition shall be filed in the circuit court of the county  
46 where the school district is located. The petition shall be filed within  
47 thirty days after issuance of the commission's final order, order  
48 denying reconsideration, or order joining in the request for judicial  
49 review, as applicable. Upon the filing of such petition, the court shall  
50 cause notice to be served upon the commission and thereupon shall  
51 have jurisdiction of the proceeding. The commission shall file in the  
52 court the record of the proceeding, certified by the commission, within  
53 ten days after the clerk's notice unless such time is extended by the  
54 court for good cause shown. The court shall have jurisdiction to grant

55 to the commission such temporary relief or restraining order it deems  
56 just and proper and in like manner to make and enter a decree  
57 enforcing, modifying, or setting aside the order of the commission. The  
58 findings of the commission with respect to questions of fact, including  
59 ultimate facts, if supported by competent and substantial evidence on  
60 the record considered as a whole, shall be conclusive.

61 (3) If the time to petition for extraordinary relief from a  
62 commission decision has expired, the commission shall seek  
63 enforcement of any final decision or order in a circuit court in the  
64 school district where the violation case occurred. The commission shall  
65 respond within ten days to any inquiry from a party to the action as to  
66 why the commission has not sought court enforcement of the final  
67 decision or order. If the response does not indicate that there has been  
68 compliance with the commission's final decision or order, the  
69 commission shall seek enforcement of the final decision or order upon  
70 the request of the party. The commission shall file in the court the  
71 record of the proceeding, certified by the commission, and appropriate  
72 evidence disclosing the failure to comply with the decision or order. If,  
73 after a hearing, the court determines that the order was issued under  
74 procedures established by the commission and that the person or entity  
75 refuses to comply with the order, the court shall enforce such order by  
76 writ of mandamus. The court shall not review the merits of the order.

160.1015. 1. Public school employees shall have the right to form,  
2 join, and participate in the activities of any organization, agency,  
3 association, committee, union, or employee representation council for  
4 the purpose of representation on all matters of employer-employee  
5 relations under sections 160.1000 to 160.1054. Public school employees  
6 shall also have the right to refrain from any or all of such activities.

7 2. Any employee may at any time present grievances to his or her  
8 employer without the intervention of an employee representation  
9 council or employee organization.

10 3. Nothing in sections 160.1000 to 160.1054 shall be construed to  
11 limit, impair, or affect the right of a public school employee to the  
12 expression or communication of a view, grievance, complaint, or  
13 opinion on any matter related to the conditions or compensation of  
14 public school employment or their betterment as long as the expression  
15 or communication does not interfere with the full, faithful, and proper

16 performance of the duties of employment.

160.1018. 1. Employee organizations shall have the right to  
2 represent their members in their professional and employment  
3 relations with public school employers. Employee organizations may  
4 establish reasonable restrictions regarding who may join and may make  
5 reasonable provisions for the dismissal of individuals from  
6 membership.

7 2. Employee organizations shall have access to use institutional  
8 facilities at reasonable times for the purpose of meetings concerning  
9 the exercise of rights guaranteed by sections 160.1000 to 160.1054.

10 3. All employee organizations shall have the right to have  
11 membership dues deducted under section 168.300, RSMo. In addition,  
12 any school district that grants payroll deduction for membership dues  
13 for one employee organization shall allow all employee organizations  
14 the opportunity to have membership dues deducted. The right to have  
15 dues deducted can be removed under subsection 2 of section 160.1042.

160.1021. 1. Employee representation councils shall have the  
2 right to represent employees in their appropriate unit in a school  
3 district in their professional and employment relations with public  
4 school employers.

5 2. Employee representation councils shall be allowed to  
6 communicate with members of the employee unit, subject to reasonable  
7 regulation, and the right to use institutional facilities at reasonable  
8 times for the purpose of meetings concerned with the exercise of the  
9 rights guaranteed by sections 160.1000 to 160.1054.

160.1024. A person serving in a management position,  
2 supervisory position, or a confidential position may represent himself  
3 or herself individually in his or her employment relationship with the  
4 public school employer. An employee representation council shall not  
5 be permitted by a public school employer to meet and negotiate on any  
6 benefit or compensation paid to persons serving in a management  
7 position, supervisory position, or a confidential position.

160.1027. 1. It shall be a violation of sections 160.1000 to 160.1054  
2 and unlawful for a public school employer to do any of the following:

3 (1) Impose or threaten to impose reprisals on employees, to  
4 discriminate or threaten to discriminate against employees, or  
5 otherwise to interfere with, restrain, or coerce employees because of



6 their exercise of rights guaranteed by sections 160.1000 to  
7 160.1054. For purposes of this subdivision, "employee" shall include an  
8 applicant for employment or reemployment;

9 (2) Deny rights guaranteed to employee organizations or  
10 employee representation councils by sections 160.1000 to 160.1054;

11 (3) Refuse or fail to meet and negotiate in good faith with  
12 employee representation councils;

13 (4) Dominate or interfere with the formation of employee  
14 representation councils.

15 2. It shall be a violation of sections 160.1000 to 160.1054 and  
16 unlawful for an employee organization to:

17 (1) Cause or attempt to cause a public school employer, an  
18 employee representation council, or another employee organization to  
19 violate any provisions of sections 160.1000 to 160.1054;

20 (2) Impose or threaten to impose reprisals on employees, to  
21 discriminate or threaten to discriminate against employees, or  
22 otherwise to interfere with, restrain, or coerce employees because of  
23 their exercise of rights guaranteed by sections 160.1000 to 160.1054;

24 (3) Refuse or fail to cooperate in good faith with an employee or  
25 another employee organization in carrying out the functions of an  
26 employee representation council.

27 3. It shall be a violation of sections 160.1000 to 160.1054 and  
28 unlawful for an employee representation council to:

29 (1) Cause or attempt to cause a public school employer,  
30 employee, or an employee organization to violate any provisions of  
31 sections 160.1000 to 160.1054;

32 (2) Impose or threaten to impose reprisals on employees, to  
33 discriminate or threaten to discriminate against employees, or  
34 otherwise to interfere with, restrain, or coerce employees because of  
35 their exercise of rights guaranteed by sections 160.1000 to 160.1054;

36 (3) Refuse or fail to meet and negotiate in good faith with the  
37 public school employer of any of the employees in the unit represented  
38 by the council.

160.1030. 1. (1) The duty to meet and negotiate in good faith  
2 requires the local board of education to publish and adopt a policy that  
3 establishes a time line for the parties to begin negotiations prior to the  
4 adoption of the final budget for the ensuing year sufficiently in

5 advance of such adoption date so that there is adequate time for  
6 agreement to be reached.

7 (2) A public school employer shall, upon request, meet and  
8 negotiate regarding matters within the scope of representation with  
9 and only with an employee representation council that represents  
10 employees in their appropriate unit. A public school employer shall  
11 appoint at least one member of the board of education to participate in  
12 all meetings with the employee representation council.

13 2. (1) The scope of meeting and negotiating shall be limited to  
14 matters relating to wages, hours of employment, and other terms and  
15 conditions of employment. "Terms and conditions of employment" mean  
16 grievance procedures, insurance, fringe benefits, leave, and payroll  
17 deductions. Nothing herein shall prohibit the parties from mutually  
18 agreeing to discuss other terms and conditions of employment,  
19 provided however, that refusal to negotiate on any other terms and  
20 conditions shall not constitute bad faith.

21 (2) All matters not specifically enumerated are reserved to the  
22 public school employer and may not be a subject of meeting and  
23 negotiating; provided that nothing herein may be construed to limit the  
24 right of the public school employer to consult with any employee,  
25 employee organization or employment representation council on any  
26 matter outside the scope of representation.

27 (3) Nothing herein shall authorize the diminution of any right,  
28 duty or obligation of either the professional employee or the board of  
29 education, which has been fixed by statute or by the constitution of this  
30 state. Except as otherwise expressly provided in this subsection, the  
31 fact that any matter may be the subject of a statute or the constitution  
32 of this state does not preclude negotiation thereon so long as the  
33 negotiation proposal would not prevent the fulfillment of the statutory  
34 or constitutional objective.

160.1033. A public school employer and a majority of the  
2 employee representation council shall enter into a written agreement  
3 covering matters within the scope of meeting and negotiating under  
4 section 160.1030. This written agreement shall be presented to the  
5 employer for action at a public meeting. The school board has the  
6 authority to accept, reject, or modify the agreement that has been  
7 reached between the employer and the majority of the employee

8 representation council. The written agreement becomes binding when  
9 approved by a majority of the members of the board of education and  
10 the minutes of the meeting where action took place are approved.

160.1036. The employee representation council shall fairly  
2 represent each and every employee in the appropriate unit.

160.1039. The employee representation council or any employee  
2 organization shall have standing to sue in any action or proceeding  
3 heretofore or hereafter instituted by it as representative and on behalf  
4 of one or more of its members.

160.1042. 1. (1) No public school employee, employee  
2 organization, or employee representation council shall engage in a  
3 strike or cause, instigate, encourage, or condone a strike.

4 (2) No public school employer shall institute a lockout. A public  
5 school employer does not violate this section if there is a total or  
6 partial cessation of the public school employer's operations in response  
7 to a strike held in violation of this subsection.

8 2. (1) If a public school employer alleges that there is a strike by  
9 one or more public school employees in violation of subdivision (1) of  
10 subsection 1 of this section, the employer shall notify the commission  
11 of the full or partial days a public school employee was engaged in the  
12 alleged strike.

13 (2) If an employee representation council, an employee  
14 organization, or a public school employer alleges that there is a lockout  
15 by a public school employer in violation of subdivision (2) of subsection  
16 1 of this section, the council, association, organization, or employee  
17 shall notify the commission of the full or partial days of the alleged  
18 lockout.

19 (3) Within thirty days after receipt of a notice made under  
20 subdivision (1) or (2) of this subsection, the commission shall conduct  
21 a hearing to determine if there has been a violation and shall issue its  
22 decision and order.

23 (4) If, after such hearing, the commission finds that one or more  
24 public school employees engaged in a strike in violation of subdivision  
25 (1) of subsection 1 of this section, the commission shall fine each public  
26 school employee two hundred fifty dollars for each full or partial day  
27 that he or she engaged in the strike. In addition, such employees may  
28 be subject to dismissal after a hearing conducted by the board under

29 section 168.118, RSMo, and if not dismissed by the school district, they  
30 shall forfeit their claim to tenure if they presently have attained  
31 tenure, and the same may be demoted to probationary status for the  
32 entire probationary period.

33 (5) If, after such hearing, the commission finds any employee  
34 organization has supported, assisted, or facilitated a strike in violation  
35 of subdivision (1) of subsection 1 of this section, such employee  
36 organization shall be fined five thousand dollars for each full or partial  
37 day that public school employee or employees engaged in the  
38 strike. Such employee organization shall be ineligible to be  
39 represented on an employee representation council in the public school  
40 district where the strike took place for a period of two years after the  
41 violation. In addition, the public school employer shall stop making  
42 payroll deductions for dues of any such employee organization for one  
43 year after the violation.

44 (6) If, after such hearing, the commission finds that a public  
45 school employer instituted a lockout in violation of subdivision (2) of  
46 subsection 1 of this section, the commission shall fine the public school  
47 employer five thousand dollars for each full or partial day of a lockout  
48 and shall fine each member of the public school employer's governing  
49 board and superintendent of schools two hundred fifty dollars for each  
50 full or partial day of a lockout.

51 (7) If the commission imposes a fine against a public school  
52 employee under subdivision (4) of this subsection and the public school  
53 employee continues to be employed by a public school employer, the  
54 commission shall order the public school employer to deduct the fine  
55 from the public school employee's annual salary.

56 (8) The commission shall transmit money received from fines  
57 imposed under this section, and a public school employer shall transmit  
58 money deducted under an order under subdivisions (5) and (6) of this  
59 subsection to the state treasurer for deposit in the state school moneys  
60 fund.

61 (9) If the commission does not receive payment of a fine imposed  
62 under this section within thirty days after the imposition of the fine,  
63 or if a public school employer does not deduct a fine from a public  
64 school employee's pay pursuant to an order under subdivision (6) of  
65 this subsection, the commission shall institute collection proceedings.

66           **(10) Fines imposed under this section are in addition to all other**  
67 **penalties prescribed by sections 160.1000 to 160.1054 and by law.**

68           **(11) A public school employer may bring an action to enjoin a**  
69 **strike by public school employees, and an employee representation**  
70 **council or employee organization may bring an action to enjoin a**  
71 **lockout by a public school employer in the circuit court for the county**  
72 **in which the affected public school is located. A court having**  
73 **jurisdiction of an action brought under this subsection shall grant**  
74 **injunctive relief if the court finds that a strike or lockout has occurred,**  
75 **without regard to the existence of other remedies, demonstration of**  
76 **irreparable harm, or other factors. Failure to comply with an order of**  
77 **the court may be punished as contempt. In addition, the court shall**  
78 **award court costs and reasonable attorney fees to a plaintiff who**  
79 **prevails in an action brought under this subsection.**

80           **(12) A public school employer shall not provide to a public school**  
81 **employee or to a school board member any compensation or additional**  
82 **work assignment that is intended to reimburse the public school**  
83 **employee or school board member for a monetary penalty imposed**  
84 **under this section.**

85           **(13) No penalty, forfeiture of rights or privileges, or other**  
86 **sanction or fine imposed on an employee organization, its officers, or**  
87 **members as the result of a strike shall be negotiable by such**  
88 **organization and a public school employer at any time.**

**160.1045. 1. Notwithstanding any other provision to the contrary,**  
2 **establishment of an employee representation council for an appropriate**  
3 **unit shall be initiated by the filing with the local board of education a**  
4 **request letter by an employee organization and supported by a showing**  
5 **of interest of at least ten percent of the employees in an appropriate**  
6 **unit. The request letter shall describe the grouping of jobs or positions**  
7 **which constitute the unit claimed to be appropriate. Each school**  
8 **district shall adopt and publish a policy on procedures to recognize and**  
9 **establish an employee representation council.**

10           **2. Notice of any such request letter shall be conspicuously posted**  
11 **on all employee bulletin boards in each facility of the public school**  
12 **employer in which members of the unit claimed to be appropriate are**  
13 **employed. The board of education shall allow at least forty-five days**  
14 **between the date of such posting and the date the school board takes**

15 action to allow other employee organizations an opportunity to file a  
16 petition supported by sufficient showing of interest to join the council.

17 3. The showing of interest supporting a request letter shall be  
18 based upon current dues deduction authorizations or other evidence  
19 such as notarized membership lists and shall be dated not more than  
20 six months prior to filing of the request letter. Such proof of support  
21 shall be submitted directly to the board or its designee, and the  
22 information submitted shall remain confidential and not be disclosed  
23 by the board or its designee. The board shall carry out its  
24 responsibilities under this section and shall report in writing within  
25 seven days of a decision by the local board of education to the  
26 employee organization as to whether the proof of support is adequate,  
27 and if not adequate, it shall state the reasons why it is inadequate. Any  
28 employee organization may appeal the decision by the board to the  
29 commission who shall establish procedures for hearing such appeal.

30 4. If a local board of education receives request letters and  
31 showing of interest documents that are similar from more than one  
32 employee organization, any employee that has their name appearing on  
33 both membership lists or supporting documentations shall have their  
34 name stricken from both organizations' documentations for the purpose  
35 of verifying a showing of interest.

36 5. Any board of education that does not receive a request letter  
37 or the board of education determines there is not a showing of interest  
38 by at least ten percent of any employee organization shall not be  
39 subject to the provisions of sections 160.1000 to 160.1054.

40 6. If there is only one employee organization that establishes a  
41 showing of interest of at least ten percent, the local board of education  
42 shall determine in policy the size of the council.

160.1048. 1. (1) Any employee organization that can establish a  
2 showing of interest of at least ten percent of the employees in the  
3 appropriate unit shall be entitled to have at least one representative on  
4 the employee representation council. Additional representatives of an  
5 employee organization to the council shall be proportional based on a  
6 percentage of membership for each organization that established a  
7 showing of interest.

8 (2) If only one employee organization establishes a showing of  
9 interest of at least ten percent, the local board of education shall

10 determine in policy the size of the council. After the first year of  
11 meeting and negotiating with the employee representation council in  
12 a school district that has more than ten different buildings where  
13 employees of a represented unit are located, the board of education  
14 may establish a larger council, as long as representation on the council  
15 remains proportional to the size of the different member organizations  
16 that have established a showing of interest.

17 (3) The showing of interest shall be determined in accordance  
18 with section 160.1045. This showing of interest shall be renewed  
19 annually, and membership on the council shall be adjusted accordingly.

20 (4) The employee organization shall submit the showing of  
21 interest to the board, or its designee, and the information submitted  
22 shall remain confidential and not be disclosed by the board or designee.

23 2. The members of the employee representation council shall  
24 establish and revise as necessary, appropriate operating procedures to  
25 allow the council to function in a cooperative and efficient manner,  
26 including:

27 (1) Developing a protocol for cooperation between and among all  
28 employee organizations, which comprise the council, that will allow  
29 them to act together on behalf of all employees in the appropriate unit,  
30 and that will enable the council to secure and maintain stable and  
31 effective arrangements;

32 (2) Establishing organizational structures that will enable the  
33 council to better perform its function;

34 (3) Establishing a procedure for communication between the  
35 employer and the council, and among council members, including the  
36 sharing of information with all unit members as well as with the  
37 council's constituent employee organizations;

38 (4) Determining the venue, frequency and duration of meetings  
39 of the council;

40 (5) Establishing the duration for all operating procedures, and  
41 a process for review and revision.

42 In establishing and revising such operating procedures, all  
43 organizations comprising the employee representation council shall act  
44 in a spirit of cooperation with a view to reaching an agreement within  
45 a reasonable time so as not to interfere with the ability of the council  
46 to fulfill its statutory functions. If no such initial agreement is reached

47 following the establishment of the council and the beginning of meeting  
48 and negotiating with the employer, the board of education shall provide  
49 a prototype of operating procedures for the parties to follow. Meetings  
50 between the employee representation council and the district shall not  
51 be subject to the provisions of chapter 610, RSMo.

160.1051. All matters within the scope of meeting and negotiating  
2 that are agreed to by a simple majority of employee representation  
3 councils and the employers shall be reduced to writing. Binding  
4 arbitration shall not be allowed. Included in this document are items  
5 where agreement could not be reached. This written document shall be  
6 made public and presented to the board of education for action. The  
7 board of education has the option to accept, reject, or modify the  
8 written document. Once the written agreement is acted upon by the  
9 board of education and the minutes of the meeting where the board of  
10 education took action on the agreement are approved, the agreement  
11 becomes binding. Discussion of the written document by the board of  
12 education shall be done in an open meeting. Nothing in sections  
13 160.1000 to 160.1054 shall absolve a board of education from following  
14 section 610.010, RSMo.

160.1054. The commission shall promulgate rules to implement  
2 the provisions of sections 160.1000 to 160.1054. Any rule or portion of  
3 a rule, as that term is defined in section 536.010, RSMo, that is created  
4 under the authority delegated in this section shall become effective  
5 only if it complies with and is subject to all of the provisions of chapter  
6 536, RSMo, and, if applicable, section 536.028, RSMo. This section and  
7 chapter 536, RSMo, are nonseverable and if any of the powers vested  
8 with the general assembly under chapter 536, RSMo, to review, to delay  
9 the effective date, or to disapprove and annul a rule are subsequently  
10 held unconstitutional, then the grant of rulemaking authority and any  
11 rule proposed or adopted after August 28, 2008, shall be invalid and  
12 void.

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